

HOUSE BILL No. 2454

By Joint Committee on Corrections and Juvenile Justice Oversight

1-10

1 AN ACT concerning children and minors; relating to the revised Kansas
2 juvenile justice code; review hearings; amending K.S.A. 2017 Supp.
3 38-2343 and repealing the existing section.

dispositional hearing;

sections

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 38-2343 is hereby amended to read as
7 follows: 38-2343. (a) *Basis for extended detention; findings and*
8 *placement.* Whenever a juvenile is taken into custody, the juvenile shall
9 not remain in detention for more than 48 hours, excluding Saturdays,
10 Sundays, legal holidays, and days on which the office of the clerk of the
11 court is not accessible, from the time the initial detention was imposed,
12 unless the court determines after hearing, within the 48-hour period, that
13 further detention is warranted based on the criteria in K.S.A. 2017 Supp.
14 38-2331, and amendments thereto.

and 38-2360

15 (b) (1) If the juvenile is in custody on the basis of a new offense
16 which would be a felony or misdemeanor if committed by an adult and no
17 prior judicial determination of probable cause has been made, the court
18 shall determine whether there is probable cause to believe that the juvenile
19 has committed the alleged offense.

20 (2) In the absence of the necessary findings, the court shall order the
21 juvenile released.

22 (c) *Waiver of detention hearing.* The detention hearing may be
23 waived in writing by the juvenile and the juvenile's attorney with approval
24 of the court. The right to a detention hearing may be reasserted in writing
25 by the juvenile or the juvenile's attorney or parent at anytime not less than
26 48 hours prior to trial.

27 (d) *Notice of hearing.* Whenever it is determined that a detention
28 hearing is required the court shall immediately set the time and place for
29 the hearing. Except as otherwise provided by K.S.A. 2017 Supp. 38-
30 2332(c)(1), and amendments thereto, notice of the detention hearing shall
31 be given at least 24 hours prior to the hearing, unless waived.

32 When there is insufficient time to give written notice, oral notice may
33 be given and is completed upon filing a certificate of oral notice with the
34 clerk.

35 (e) *Attorney for juvenile.* At the time set for the detention hearing if
36 no retained attorney is present to represent the juvenile, the court shall

1 adult, would constitute an off-grid felony or a nondrug severity level 1
 2 through 4 person felony.
 3 Sec. 2. K.S.A. 2017 Supp. 38-2343 is hereby repealed.
 4 Sec. 3. This act shall take effect and be in force from and after its
 5 publication in the statute book.

The review hearings provided in this subsection are not required for a juvenile offender held in detention awaiting disposition in such juvenile offender's case subject to K.S.A. 2017 Supp. 38-2360(f), and amendments thereto.

and 38-2360 are

Section 2. K.S.A. 2017 Supp. 38-2360 is hereby amended to read as follows: See attachment 1

Renumber sections

Attachment 1

38-2360. Post-adjudication orders and hearings. (a) At any time after the juvenile has been adjudicated to be a juvenile offender, the court shall order one or more of the tools described in this subsection to be submitted to assist the court unless the court finds that adequate and current information from a risk and needs assessment is available from a previous investigation, report or other sources:

(1) An evaluation and written report by a mental health or a qualified professional stating the psychological or emotional development or needs of the juvenile. The court also may order a report from any mental health or qualified professional who has previously evaluated the juvenile stating the psychological or emotional development needs of the juvenile. If the court orders an evaluation as provided in this section, a parent of the juvenile shall have the right to obtain an independent evaluation at the expense of the parent. If the evaluation indicates that the juvenile requires acute inpatient mental health or substance abuse treatment, the court shall have the authority to compel an assessment by the secretary for aging and disability services. The court may use the results to inform a treatment and payment plan according to the same eligibility process used for non-court-involved youth.

(2) A report of the medical condition and needs of the juvenile. The court also may order a report from any physician who has been attending the juvenile, stating the diagnosis, condition and treatment afforded the juvenile.

(3) An educational needs assessment of the juvenile from the chief administrative officer of the school which the juvenile attends or attended to provide to the court information that is readily available which the school officials feel would properly indicate the educational needs of the juvenile. The educational needs assessment may include a meeting involving any of the following: (A) The juvenile's parents; (B) the juvenile's teacher or teachers; (C) the school psychologist; (D) a school special services representative; (E) a representative of the commissioner; (F) the juvenile's court appointed special advocate; (G) the juvenile's foster parents or legal guardian; and (H) other persons that the chief administrative officer of the school, or the officer's designee, deems appropriate.

(4) Any other presentence investigation and report from a court services officer which includes: (A) The circumstances of the offense; (B) the attitude of the complainant, victim or the victim's family; (C) the record of juvenile offenses; (D) the social history of the juvenile; and (E) the present condition of the juvenile. Except where specifically prohibited by law, all local governmental public and private educational institutions and state agencies shall furnish to the officer conducting the predispositional investigation the records the officer requests. Predispositional investigations shall contain other information prescribed by the court.

(5) The court in its discretion may direct that the parents submit a domestic relations affidavit.

(b) A summary of the results from a risk and needs assessment shall be provided to the court post-adjudication, predisposition and used to inform supervision levels. A single, uniform risk and needs assessment shall be adopted by the office of judicial administration and the department of corrections to be used in all judicial districts. The office of judicial administration and the secretary of corrections shall establish cutoff scores determining risk levels of juveniles. Training on such risk and needs assessment shall be required for all administrators of the assessment. Data shall be collected on the results of the assessment to inform a validation study on the Kansas juvenile justice population to be conducted by June 30, 2020.

(c) Expenses for post adjudication tools may be waived or assessed pursuant to K.S.A. 2017 Supp. ~~38-2314(c)(2)~~, and amendments thereto.

(d) Except as otherwise prohibited by law or policy, the court shall make any of the reports ordered pursuant to subsection (a) available to the attorneys and shall allow the attorneys a reasonable time to review the report before ordering the sentencing of the juvenile offender.

(e) At any time prior to sentencing, the judge, at the request of a party, shall hear additional evidence as to proposals for reasonable and appropriate sentencing of the case.

(f) If a juvenile is being held in detention, a dispositional hearing to sentence the juvenile offender shall take place within 45 days after such juvenile offender has been adjudicated.